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State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas & Mining

MICHAEL R. STYLER
Executive Director

JOHN R. BAZA
Division Director

November 30, 2007

CERTIFIED RETURN RECEIPT
7002 0510 0003 8603 4070

Brett R. Bryson, President
Wasatch Mountain Excavating, Inc.
1065 North Main Suite 1
North Salt Lake, Utah 84054

Subject: Proposed Assessment for Cessation Order MC-2007-01-16, Wasatch Mountain Excavating, Inc., Elite Rock-West, S0490050, Utah County, Utah

Dear Mr. Bryson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division Inspector, Lynn Kunzler, on November 1, 2007. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violation as follows:

- MC-2007-04-04 Violation 1 of 1 \$484

The enclosed worksheet specifically outlines how the violation was assessed.

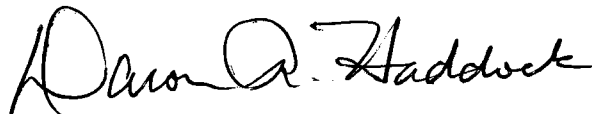
By these rules, any written information, which was submitted, by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment.

Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or appointed Conference Officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the final assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock
Assessment Officer

Enclosure: Worksheets

cc: Vickie Southwick, Exec. Sec.
Vicki Bailey, Accounting

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**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program**

COMPANY / MINE Wasatch Mountain Excavating/ Elite Rock-West PERMIT S0490050

NOV / CO # MC-2007-01-16

VIOLATION 1 of 1

ASSESSMENT DATE November 28, 2007

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

******* *An Operator is required to obtain a permit from the Division of Oil Gas and Mining prior to conducting mining operations. On November 1, 2007 the Division conducted an inspection of this site and determined that the Operator had expanded the disturbance at this mine site beyond the area approved for mining. An inspection of this site conducted by Lynn Kunzler, found areas of mining related disturbance, which are not part of a current small mine permit. Approximately 9 acres have been disturbed at this site and the operation is only approved and bonded for a maximum of 5 acres. The Operator had not amended the current plan to conduct mining activities in this area. Disturbance has actually occurred. Twenty points are assigned.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

******* *The inspector stated that the operator has disturbed approximately 4 acres of land that had not been approved for disturbance. The damage is the loss of vegetation and soil resources from the area disturbed as the result of mining operations conducted without an approved permit. It is likely the operation would continue to expand had the violation not been observed.. While the soil and vegetation have been disturbed, the site could still be reclaimed. There seemed to be more potential for damage rather than actual damage, so I am assessing points in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the violation was the result of the Operator's indifference to the DOGM regulations. The Operator did not adequately control the workers on the site and allowed them to conduct activities that were not approved. A portion of the disturbed area had been previously reclaimed and yet was redisturbed for some unknown reason. This shows lack of reasonable care. A prudent operator would understand the need to receive approval of an amendment prior to creating additional disturbance. The Operator was negligent in this regard, thus the assignment of points in the mid-part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)

(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

*** *The abatement has not been completed as yet, so good faith points cannot be awarded at this time. This category may be looked at again and good faith awarded depending on diligence shown to abate the violation.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-07-01-16</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>28</u>
III.	TOTAL NEGLIGENCE POINTS <u>8</u>
IV.	TOTAL GOOD FAITH POINTS <u> </u>
	TOTAL ASSESSED POINTS <u>36</u>
TOTAL ASSESSED FINE <u>\$ 1,760</u>	